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Board of Vocational Nursing
and Psychiatric Technicians

8 BEFORE THE
9 BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. PT-2008-1455

12 VERONICA AMELIA CUEVAS
11101 Emerson Way
13 Stanton, CA 90680-2849

ACCUSATION

14 Psychiatric Technician License
15 No. PT 31631

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
22 Technicians, Department of Consumer Affairs.

23 2. On or about April 8, 2003, the Board of Vocational Nursing and Psychiatric
24 Technicians issued Psychiatric Technician License Number PT 31631 to Veronica Amelia
25 Cuevas (Respondent). The Psychiatric Technician License was in full force and effect at all times
26 relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 4545 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

5. Section 4520 of the Code provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

8. Section 4521 of the Code states:

The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code, § 4500, et seq.)] for any of the following reasons:

1 (a) Unprofessional conduct, which includes but is not limited to any of the
2 following:

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4 (5) Use any controlled substance as defined in Division 10 (commencing
5 with Section 11000) of the Health and Safety Code, or any dangerous drug as
6 defined in Section 4022, or alcoholic beverages, to an extent or in a manner
7 dangerous or injurious to himself or herself, any other person, or the public or to the
8 extent that the use impairs his or her ability to conduct with safety to the public the
9 practice authorized by his or her license.

10
11 (f) Conviction of any offense substantially related to the qualifications,
12 functions, and duties of a psychiatric technician, in which event the record of the
13 conviction shall be conclusive evidence of the conviction. The board may inquire
14 into the circumstances surrounding the commission of the crime in order to fix the
15 degree of discipline.

16 REGULATORY PROVISIONS

17 9. California Code of Regulations, title 16, section 2578, states:

18 For the purposes of denial, suspension, or revocation of a license pursuant to
19 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
20 crime or act shall be considered to be substantially related to the qualifications,
21 functions or duties of a licensed psychiatric technician if to a substantial degree it
22 evidences present or potential unfitness of a licensed psychiatric technician to
23 perform the functions authorized by his license in a manner consistent with the public
24 health, safety, or welfare. Such crimes or acts shall include but not be limited to those
25 involving the following:

26 (a) Procuring a license by fraud, misrepresentation, or mistake.

27 (b) A conviction of practicing medicine without a license in violation of
28 Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or
abetting the violation of, or conspiring to violate any provision or term of Chapter 10,
Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons,
whether a licensed physician or not, in the performance of or arranging for a violation
of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and
Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of
"narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of
the Business and Professions Code.

1 10. California Code of Regulations, title 16, section 2579 states:

2 When considering a) the denial of a license under Section 480 of the Business
3 and Professions Code, b) the suspension or revocation of a license on the ground that
4 a licensee has been convicted of a crime, or c) a petition for reinstatement of a license
5 under Section 4524 of the Business and Professions Code, the Board, in evaluating
6 the rehabilitation of an individual and his or her present eligibility for a license, will
7 consider the following criteria:

8 (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.

9 (2) Actual or potential harm to the public.

10 (3) Actual or potential harm to any patient.

11 (4) Overall disciplinary record.

12 (5) Overall criminal actions taken by any federal, state or local agency or court.

13 (6) Prior warnings on record or prior remediation.

14 (7) Number and/or variety of current violations.

15 (8) Mitigation evidence.

16 (9) In case of a criminal conviction, compliance with terms of sentence and/or
17 court-ordered probation.

18 (10) Time passed since the act(s) or offense(s) occurred.

19 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to
20 Penal Code section 1203.4.

21 (12) Cooperation with the Board and other law enforcement or regulatory
22 agencies.

23 (13) Other rehabilitation evidence.

24 COSTS

25 11. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
26 administrative law judge to direct a licensee found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (August 13, 2009 Criminal Conviction for DUI on November 17, 2008)

3 12. Respondent is subject to disciplinary action under sections 490 and 4521, subdivision
4 (f) of the Code in that Respondent was convicted of a crime that is substantially related to the
5 qualifications, functions, and duties of a licensed psychiatric technician. The circumstances are
6 as follows:

7 a. On or about August 13, 2009, in a criminal proceeding entitled *People of the*
8 *State of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice
9 Center), case number 09WM01025, Respondent was convicted on her plea of guilty of violating
10 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC)
11 of more than 0.15%, and she had been previously convicted of driving under the influence on or
12 about May 17, 2007.

13 b. As a result of the conviction, on or about August 13, 2009, Respondent was
14 sentenced to five years informal probation, and ordered to serve 60 days in the Orange County
15 Jail (with credit for three days), attend and complete an 18-month Multiple Offender Alcohol
16 Program, pay \$837 in fees, fines, and restitution, and comply with standard alcohol terms.

17 c. The facts that led to the conviction were that on or about the early morning of
18 November 17, 2008, Orange County Sheriff's Deputies observed Respondent driving in an unsafe
19 manner in a residential area, swerving from side to side and striking the right curb. The deputies
20 initiated a traffic stop and contacted Respondent. Respondent's eyes were watery and her
21 responses were slow. Respondent agreed to submit to a series of field sobriety tests which were
22 not completed satisfactorily. Respondent refused to provide a breath sample. Respondent was
23 arrested and transported to a medical facility where a blood sample was drawn. The sample
24 subsequently tested with a BAC of 0.16%.

25 SECOND CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)

27 13. Respondent has subjected her license to disciplinary action under section 4521,
28 subdivision (a)(5) of the Code in that on or about November 17, 2008, Respondent used alcohol

1 in a manner dangerous or injurious to herself and others, in that she operated a motor vehicle on a
2 public roadway with a BAC of 0.16 percent, twice the legal limit, as described in paragraph 12,
3 above.

4 DISCIPLINARY CONSIDERATIONS

5 14. Pursuant to California Code of Regulations, title 16, section 2579, subdivisions (5)
6 and (6), Complainant alleges:

7 a. On or about May 17, 2007, in a criminal proceeding entitled *People of the State*
8 *of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (West Justice
9 Center), case number 07WM04042, Respondent was convicted on her plea of guilty of violating
10 Vehicle Code section 23152, subdivision (a), (driving under the influence of alcohol), and
11 Vehicle Code section 23152, subdivision (b), (driving with a BAC of more than 0.08%),
12 misdemeanors. As a result of the conviction, Respondent was sentenced to five years informal
13 probation, and ordered to serve 30 days in the Orange County Jail (or 30 days of volunteer
14 exchange with CalTrans), attend and complete a six-month First Offender Alcohol Program,
15 complete a MADD Victim's Impact Panel, pay \$697 in fees, fines, and restitution, and adhere to
16 standards terms of probation. The facts that led to the conviction were that on or about the early
17 morning of February 1, 2007, Respondent was observed by a Huntington Beach Police
18 Department helicopter driving at an extremely high rate of speed (clocked at approximately 150
19 miles per hour). Respondent's vehicle was stopped by officers of the Huntington Beach and
20 Westminster Police Departments. Respondent failed the field sobriety tests and she was arrested
21 for driving under the influence. Respondent was served an order of suspension of driving
22 privileges. A subsequent blood test revealed a BAC of 0.14%.

23 b. In a letter to Respondent dated August 13, 2007, an enforcement analyst of the
24 Board advised Respondent that the Board had completed a review of the above-referenced
25 conviction. Respondent was informed that the conviction was substantially related to her license
26 but that the Board would not pursue disciplinary action at that time. Respondent was warned that
27 future substantiated reports of similar behavior, or other violations of the law or violations of
28 regulations governing the practice of her license could result in disciplinary action.

1 c. On or about September 9, 2009, in a criminal proceeding entitled *People of the*
2 *State of California vs. Veronica Amelia Cuevas*, in Orange County Superior Court (Harbor Justice
3 Center), case number 09HM06662. Respondent was convicted on her plea of guilty of violating
4 Vehicle Code section 14601.5, subdivision (a), operating a motor vehicle with the knowledge that
5 her driving privileges were suspended, a misdemeanor. As a result of the conviction, Respondent
6 was sentenced to three years informal probation, payment of fees, fines, and restitution in the
7 amount of \$1,301, and ordered to comply with standard terms and conditions of probation.

8 **PRAYER**


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
11 issue a decision:

12 1. Revoking or suspending Psychiatric Technician License Number PT 31631, issued to
13 Veronica Amelia Cuevas;

14 2. Ordering Veronica Amelia Cuevas to pay the Board of Vocational Nursing and
15 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: November 23, 2010.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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